THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23402 OF 2005

-

Dt:11.11.2005

Between:

-

G.Chandra Mouli and others

… Petitioners

Dr. B.R. Ambedkar Open University and others

and

… Respondents

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23402 OF 2005

ORDER:

The petitioners studied the degree course in Dr. B.R. Ambedkar Open University, the first respondent herein. They have taken the first, second and third year examinations of the relevant degree course in May 2005, at Bellampally Study Centre. The results for the examination of second year subjects were declared. However, the Controller of Examination issued a notice, dated 19.09.2005, stating

that the performance of the petitioners and other candidates, who have taken the third year and the first year undergraduate examination held in May 2005, has been cancelled, in view of the resolution passed by the Committee constituted by the Vice-Chancellor. The affected students were advised to appear in the next examinations. The petitioners challenge the action of the respondents. They contend that the examinations for the first, second and third year were conducted in the same pattern and such of the candidates, who were found to resorted for malpractices, were booked. They plead that there is absolutely no justification for the respondents in cancelling the examinations of first and third years.

On behalf of the respondents, counter-affidavit is filed. It is stated that the report submitted by the observers of the concerned centre, was discussed by the Committee constituted by the Vice-Chancellor, at its meeting held on 09.09.2005. Having regard to the large scale irregularities, the committee is said to have resolved the Study Centre be shifted from Junior College to Degree College and that the students, who have appeared in the examination held in May 2005, be permitted to take the examination in October/November, 2005. It is stated that a further resolution was passed to the effect that the regulations relating to malpractice cases, be circulated to all the centres. The copies of the reports of observers as well as the resolutions passed by the Committee were enclosed.

Sri V.Ravi Kiran Rao, the learned counsel for the petitioners, submits that the Committee constituted by the Vice-Chancellor did not distinguish the performance of the candidates for the examinations in first, second and third year and that the notice issued by the Controller of Examinations far exceeds the scope of resolutions. He further contends that the Committee has not even employed the word “cancellation” in its resolution and in that view of the matter, the action of the respondents cannot be sustained.

Sri M.Ratna Reddy, the learned standing counsel for the University, on the other hand, submits that the report submitted by the observers discloses that large-scale malpractices were found in relation to examinations for the first and the third years and accordingly action was taken to cancel the said examination as well as to shift the centre. He contends that the interests of the petitioners are protected by permitting them to take the examination in the supplementary.

Before undertaking the discussion on the merits of the matter, some settled

principles in the matter of cancellation of results in the examinations to various courses, need to be noticed. The cancellation of results of a candidate on the allegations of malpractice, certainly attaches stigma to him. In such cases, any action against a student can be taken, only after complying with the principles of natural justice. Where, however, the results of all the students at a centre are cancelled on the allegation that there were large-scale malpractices in the entire centre, the Supreme Court held that individual notices need not be given.

In the instant case, the examinations for first, second and third years were held simultaneously. The results of the second year examination were declared. It is competent for the University to cancel the performance of candidates in first and third years, if there existed proper material. If the results of the candidates, who appeared at a particular centre, are cancelled, it is not necessary to have issued individual notices.

A perusal of the various documents furnished by the petitioner and the respondents discloses that the observers at the centres made certain remarks in relation to the conducting of examinations. The report does not state that any mass copying, that too, in relation to I and II years examinations was noticed. The Committee, which discussed the reports of the observers, passed the following resolutions;

1. "Resolved to recommend shifting of the Bellampally Study Centre from Junior College to Decree College, in view of the large scale use of unfair means and reports of Observers about mass copying abetted by the college authorities.

2. Resolved to recommend that the students of Bellampally Study Centre who appeared for the Examinations held in May, 2005 (Spell-I) may be permitted to take the next examination to be held in October/November, 2005 i.e. (Spell-II).

3. Resolved to circulate all the regulations regarding Malpractice cases to Study Centres/Exam Centres well before 1st spell Notification. Further, the Committee shall meet in the 3rd week of September to finalize new regulations relating to Malpractice cases"

Even from this, it is not evident that the committee has decided to cancel the results of any particular examination. The second resolution cannot be treated as a

measure to cancel the performance as well. At any rate, the recommendation contained therein does not distinguish between the first, second and third years. The Controller of Examination, however, issued a notice to the following effect:

> "I am by direction of the Vice-Chancellor to inform you that Annual Examinations of III Year and I year U.G. held during May, 2005 at your study centre be treated as cancelled as per the resolution of the Malpractice Committee constituted by the Vice-Chancellor. In view of resorting to use of unfair means on a large scale and mass copying.
>
> The students who appeared for the afore-said examinations may be advised to appear for the next examinations."

This notice does not at all accord with the resolution of the Committee. The Controller has added several things on his own, to the decision taken by the Committee. Such a course is impermissible. In the name of communication of the decision of the committee, the Controller was not supposed to expand the scope of the same. Therefore, the action of the respondents in canceling the performance of the petitioners for first and third years is set aside.

In the normal course of things, in view of the findings recorded by this Court, the respondents would be under obligation to declare the results of the petitioners for the first and the third year forthwith. However, having regard to the importance of the matter, the respondents need to be given an opportunity to address the issue from the proper perspective. They need to keep in mind that cancellation of results would have its own serious repercussions on the careers of the students and such an extreme step can be resorted to, if only, there exist proper material. It cannot be on the basis of assumptions, presumptions or surmises. The record placed before this Court so far does not suggest such an extreme step. If, however, there exists any other material disclosing that there was mass copying at the centre concerned, that too, in the examinations for first and third year, the Committee can certainly take the same into account and suggest proper action. If individual cases have been booked and action was taken against the students concerned, the cancellation of the results en-masse becomes untenable. The fact that the supplementary examinations have been since held, needs to be kept in mind.

Hence, the writ petition is allowed and the action of the respondents in cancelling the results of the petitioners in first and third year of the degree courses is

set aside. The respondents are directed to take the decision afresh, in the lines indicated above, within a period of two weeks from the date of receipt of a copy of this order.

_____

11.11.2005

Note: Issue C.C. in one week.

L.R. Copy to be marked.

(B/o)

kdl